

HOLLAND & KNIGHT LLP
Vito A. Costanzo (SBN 132754)
Theresa A. Middlebrook (SBN 89709)
633 West Fifth Street, 21st Floor
Los Angeles, California 90071-2040
Telephone (213) 896-2400
Facsimile (213) 896-2450

**Attorneys for Plaintiffs
Huhtamaki Finance, B.V.,
Hershey Chocolate & Confectionery
Corporation and The Hershey Company**

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN OF CALIFORNIA**

HUHTAMAKI FINANCE, B.V. a) CASE NO. C07-02514 RS
Netherlands corporation; THE)
HERSHEY COMPANY; HERSHEY)
CHOCOLATE &) PERMANENT INJUNCTION
CONFECTIONERY)
CORPORATION, a Delaware)
corporation; and THE HERSHEY)
COMPANY, a Delaware)
corporation,)

Plaintiffs,)

vs.)

KENNETH DEAN AFFOLTER, an)
individual, d/b/a BEYOND BOMB,)

Defendant.)

EXHIBIT D

1 **PERMANENT INJUNCTION**

2 A permanent injunction is hereby issued pursuant to 15 *U.S.C.* § 1116 that shall enjoin
3 and restrain Kenneth Dean Affolter, individually and doing business as Beyond Bomb and his
4 partners, agents, servants, employees, representatives, licensees, manufacturers and distributors,
5 jointly and severally, from:

6 (i) Utilizing in any way the trademarks and related trade dress owned or
7 licensed by the Hershey Company or Hershey Chocolate & Confectionery Corporation
8 (hereinafter collectively referred to as "Hershey"), including but not limited to the famous
9 ALMOND JOY, GOOD & PLENTY, JOLLY RANCHER, HERSHEY'S, KIT KAT, KISSES,
10 KRACKEL, MOUNDS, REESE'S, MR. GOODBAR, TWIZZLERS, and YORK trademarks (the
11 "Trademarks");

12 (ii) Manufacturing, marketing, advertising, distributing, selling, promoting,
13 licensing, exhibiting or displaying any product or service using the Trademarks or any copies or
14 counterfeits thereof or anything confusingly similar thereto; and

15 (iii) Otherwise infringing on the Trademarks; and

16 (iv) Using any false description, representation, or designation, or otherwise
17 engaging in conduct that is likely to create an erroneous impression that Defendant's products
18 are endorsed by Hershey or any related company, sponsored by Hershey or any related company,
19 or are connected in any way with Hershey or any related company; and

20 (v) Interfering in the existing contracts or business expectancies of Hershey in
21 any manner whatsoever; and

22 (vi) Using the Trademarks in any manner whatsoever; and

23 (vii) Holding himself out as a licensee or otherwise authorized user of the
24 Trademark; and

25 (viii) Using the Trademarks in promotional literature or materials, including
26 those posted on the Internet.

27 Pursuant to 15 *U.S.C.* § 1118, within thirty days (30) of the date affixed below,
28 Defendant is required to deliver to the Court, or to some other person that the Court may

1 designate, for ultimate destruction, any and all articles of merchandise or other items in the
2 possession or control of Defendant which might, if sold or distributed for sale, violate the
3 injunction granted herein;

4
5 IT IS SO ORDERED

6
7 Dated: UNITED STATES DISTRICT COURT JUDGE

8
9
10 # 4668790_v1
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28